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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/686,385 | 10/14/2003 | Kelly L. Morrison | C270.175.101 | 6324 |

88958 7590 11/10/2010

Dicke, Billig & Czaja, PLLC
ATTN: CAH Matters
100 South Fifth Street, Suite 2250
Minneapolis, MN 55402

| EXAMINER | |
|---|---|
| RINES, ROBERT D | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3623 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 11/10/2010 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/686,385 | MORRISON ET AL. | |
| | Examiner | Art Unit | |
| | R. David Rines | 3623 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *10 August 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-7 and 9-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7 and 9-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

**DETAILED ACTION**

***Notice to Applicant***

[1] This communication is in response to the amendment filed 10 August 2010. Claim 8 has been cancelled. Claim 1 has been amended. Claims 1-7 and 9-23 are pending.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

[2] Claims 1-4, 7-1, 14-16, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace et al. (United States Patent #6,564,121) in view of Reese (United States Patent #6,711,460) and further in view of Goodall et al. (United States Patent Application Publication #2003/0149599).

As per (currently amended) claim 1, Wallace et al. disclose a method for remote processing of pharmacy orders: establishing at an order server a plurality of order queues for a plurality of healthcare facilities, each of said order queues associated with one of said plurality of healthcare

facilities (Wallace et al.; col. 11, lines 41-67, col. 12, lines 1-12 *see "ID" association with remote dispensing units. *remote dispensing units are considered to be a form of "healthcare facility"); assigning each of said plurality of order queues to one of a plurality of remote processing centers (Wallace et al.; col. 12, lines 5-13 *see "queue database" including queuing at the host station and queuing at the dispense station); receiving at said order server a plurality of orders from said plurality of healthcare facilities (Wallace et al.; col. 12, lines 8-13 and col. 12, lines 30-41); adding each of said plurality of orders to one of said plurality of order queues associated with one of said plurality of healthcare facilities (Wallace et al.; col. 12, lines 5-13, FIGS. 3 and 4A); accessing one of said plurality of order queues from said one of said plurality of remote processing centers assigned to said order queue (Wallace et al.; col. 12, lines 8-23 and col. 12, lines 30-39); and processing said orders in said accessed order queue (Wallace et al.; col. 12, lines 30-65).

With respect to the order queues, while Wallace et al. disclose the use queuing of orders at the servers in the distribution centers, Wallace et al. fail to provide a specific teaching of queuing at the server in which the orders are initially received.

While Wallace fails to specifically recite "establishing at an order server a plurality of order queues for a plurality of facilities", the inbound orders are clearly placed in a queue database that is accessed by the pharmacy controller. The pharmacy controller is clearly associated with an operating server. The orders are clearly placed, by the controller system, in queues specifically designated for dispensing at the designated RCD/workstation (Wallace; col. 11, lines 41-67, col.

12, lines 1-13, col. 14, lines 48-67, and col. 15, lines 1-25). The host system retrieving the order information from the "queue database" is obviously aware of the origin of the order such that the reviewed order is correctly assigned to the dispense queue associated with the correct dispensing unit for "processing" of the order.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made that facility specific queuing of inbound orders is utilized by Wallace in order correctly assign the reviewed order to the RCD dispense queue associated with the sending workstation. One or ordinary skill in the art would have been motivated to draw the noted conclusion of obviousness with the motivation of employing well known tracking techniques (evidenced by Wallace) for efficient and economical medication management at medium sized facilities (Wallace et al.; col. 1, lines 10-25 and col. 1, lines 50-62).

With respect to the processing step further requiring "...at said one of the plurality of removed processing centers, wherein processing said orders comprises reviewing and authorizing said orders...", Wallace discloses authorization of prescriptions and a drug utilization review, Wallace fails to disclose that the review and authorization occurs at a remote facility/center.

However, as evidenced by Reese, it is well known in the prescription fulfillment art to conduct various processing functions, including authorization and review of prescription orders by a remotely located pharmacist (Reese; col. 13, lines 50-65 and col. 17, lines 1-22).

Claim 1 has been amended to further include the steps of "…accessing one of said plurality of order queues from a second one of said plurality of remote processing centers that was not assigned to said order queue if said orders are not processed by said one of the plurality of remote processing centers within a selected period of time; and processing said orders by the second one of said plurality of remote processing centers, wherein processing said orders comprises reviewing and authorizing said orders."

As per these elements, as noted above, Wallace et al/ discloses a plurality proscription processing centers and distribution of prescription processing to the remote centers. Reese discloses distribution of authorization and review of prescription orders. Both Wallace et al and Reese fail to disclose Wallace et al. fails to disclose "...if said orders are not processed by said one of the plurality of remote processing centers within a selected period of time; and processing said orders by the second one of said plurality of remote processing centers, wherein processing said orders comprises reviewing and authorizing said orders."

However, as evidenced by Goodall et al., it is well known in the prescription fulfillment art to determine/calculate a delivery time for a prescription ("a selected time") and monitor the filling process to determine if the prescription has been processed with the calculated time"(Goodall et al.; paragraphs [0036]-[0039]). Goodall et al.; further disclose that it is well known to place the prescription processing in an alternative, i.e., another processing center/queue in the event that the filling process has exceeded the calculated time (Goodall et al.; paragraphs [0054]0[0059] *see processing of exceptions).

It would have been obvious to one of ordinary skill to modify the prescription authorization procedures of Wallace with well known distribution of various pharmacist required tasks by remotely executing portions prescription processing including remote review and authorization as disclosed by Reese. The motivation to make the noted distributions of tasks would have been to minimizing pharmacist downtime and to allow a pharmacist to provide pharmaceutical care from a remote location (Reese; col. 2, lines 6-10 and lines 39-46).

Regarding the combination that further includes Goodall et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the multiple processing center presciption fulfillment configuration of Wallace and Reese with the well known time monitoring and adjustment features taught by Goodall et al., with the motivation of mitigating delays in the prescription filling process and ensuring patient satisfaction through quick delivery and adherence to promised delivery times (Goodall et al.; paragraph [0007]).

As per claim 2, Wallace et al. disclose a method wherein processing said orders in said accessed order queue comprises accessing a pharmacy information system for said healthcare facility associated with said accessed order queue (Wallace et al.; col. 11, lines 62-67 and col. 12, lines 1-8).

As per claim 3, Wallace et al. disclose a method wherein accessing said pharmacy information system comprises automatically connecting to said pharmacy information system when said accessed order queue is accessed from said remote processing center assigned to said order queue (Wallace et al.; col. 11, lines 40-62 and col. 13, lines 2-5).

As per claim 4, Wallace et al. disclose a method further comprising dispensing a medication associated with an order in said accessed order queue from an automated medication dispensing system interfaced to said pharmacy information system (Wallace et al.; col. 13, lines 7-32).

Regarding claims 2-4, the conclusion of obviousness and statements of motivation as discussed with regard to claim 1 above are applicable to claims 2-4 and are herein incorporated by reference.

As per claim 7, Wallace et al. disclose a method for remote processing of pharmacy orders: establishing at an order server a first order queue for a first healthcare facility (Wallace et al.; col. 11, lines 46-67 and col. 12, lines 1-22, FIGS. 3 and 4A); establishing at said order server a second order queue for a second healthcare facility (Wallace et al.; col. 11, lines 46-67 and col. 12, lines 1-22, FIGS. 3 and 4A); receiving at said order server a plurality of orders from said first healthcare facility (Wallace et al.; col. 12, lines 8-13 and col. 12, lines 30-41); receiving at said order server a plurality of orders from said second healthcare facility (Wallace et al.; col. 12, lines 8-13 and col. 12, lines 30-41); adding each of said plurality of orders from said first

healthcare facility to said first order queue (Wallace et al.; col. 12, lines 5-13, FIGS. 3 and 4A); adding each of said plurality of orders from said second healthcare facility to said second order queue (Wallace et al.; col. 12, lines 5-13, FIGS. 3 and 4A); accessing orders from said first order queue and orders from said second order queue from a first remote processing center (Wallace et al.; col. 12, lines 8-13 and col. 12, lines 30-39); and processing at said first remote processing center said orders from said first order queue and orders from said second order queue (Wallace et al.; col. 12, lines 30-65).

Claim 7 has been amended to reflect the subject matter of presently amended claim 1. Claim 7 is accordingly rejected for the reasons, conclusions of obviousness, and statements of motivation provided above for claim 1.

With respect to the order queues, while Wallace et al. disclose the use queuing of orders at the servers in the distribution centers, Wallace et al. fail to provide a specific teaching of queuing at the server in which the orders are initially received.

While Wallace fails to specifically recite "establishing at an order server a plurality of order queues for a plurality of facilities", the inbound orders are clearly placed in a queue database that is accessed by the pharmacy controller. The pharmacy controller is clearly associated with an operating server. The orders are clearly placed, by the controller system, in queues specifically designated for dispensing at the designated RCD/workstation (Wallace; col. 11, lines 41-67, col. 12, lines 1-13, col. 14, lines 48-67, and col. 15, lines 1-25). The host system retrieving the order

information from the "queue database" is obviously aware of the origin of the order such that the reviewed order is correctly assigned to the dispense queue associated with the correct dispensing unit for "processing" of the order.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made that facility specific queuing of inbound orders is utilized by Wallace in order correctly assign the reviewed order to the RCD dispense queue associated with the sending workstation. One or ordinary skill in the art would have been motivated to draw the noted conclusion of obviousness with the motivation of employing well known tracking techniques (evidenced by Wallace) for efficient and economical medication management at medium sized facilities (Wallace et al.; col. 1, lines 10-25 and col. 1, lines 50-62).

Claim 8 has been cancelled

As per claim 9, Wallace et al. disclose a method wherein processing at said first remote processing center said orders from said first order queue comprises accessing a pharmacy information system for said first healthcare facility associated with said first order queue (Wallace et al.; col. 11, lines 62-67 and col. 12, lines 1-23).

As per claim 10, Wallace et al. disclose a method wherein accessing said pharmacy information system comprises automatically connecting to said pharmacy information system when said first order queue associated with said first healthcare facility is selected at said first remote processing center (Wallace et al.; col. 11, lines 40-62 and col. 13, lines 2-5).

As per claim 11, Wallace et al. disclose a method further comprising dispensing a medication associated with an order in said first order queue from an automated medication dispensing system interfaced to said pharmacy information system (Wallace et al.; col. 13, lines 7-32).

Regarding claims 8-11, the conclusion of obviousness and statements of motivation as discussed with regard to claim 7 above are applicable to claims 8-11 and are herein incorporated by reference.

As per claim 14, Wallace et al. disclose a system for remote processing of pharmacy orders comprising: a plurality of order queues, each of said order queues associated with a healthcare facility (Wallace et al.; col. 11, lines 46-67 and col. 12, lines 1-22, FIGS. 3 and 4A); an order server for receiving orders from said healthcare facilities and adding them to said order queues according to said associated healthcare facility and for responding to requests for accessing and processing orders in said plurality of order queues (Wallace et al.; col. 12, lines 5-23); and at least one computer at least one remote processing center for accessing and processing orders in

said plurality of order queues (Wallace et al.; col. 11, lines 44-67 and col. 12 *see workstations i.e., "computer" and remote control dispenser (RCD).

Claim 14 has been amended to reflect the subject matter of presently amended claim 1. Claim 14 is accordingly rejected for the reasons, conclusions of obviousness, and statements of motivation provided above for claim 1.

With respect to the order queues, while Wallace et al. disclose the use queuing of orders at the servers in the distribution centers, Wallace et al. fail to provide a specific teaching of queuing at the server in which the orders are initially received.

While Wallace fails to specifically recite "establishing at an order server a plurality of order queues for a plurality of facilities", the inbound orders are clearly placed in a queue database that is accessed by the pharmacy controller. The pharmacy controller is clearly associated with an operating server. The orders are clearly placed, by the controller system, in queues specifically designated for dispensing at the designated RCD/workstation (Wallace; col. 11, lines 41-67, col. 12, lines 1-13, col. 14, lines 48-67, and col. 15, lines 1-25). The host system retrieving the order information from the "queue database" is obviously aware of the origin of the order such that the reviewed order is correctly assigned to the dispense queue associated with the correct dispensing unit for "processing" of the order.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made that facility specific queuing of inbound orders is utilized by Wallace in order correctly assign the reviewed order to the RCD dispense queue associated with the sending workstation. One or ordinary skill in the art would have been motivated to draw the noted conclusion of obviousness with the motivation of employing well known tracking techniques (evidenced by Wallace) for efficient and economical medication management at medium sized facilities (Wallace et al.; col. 1, lines 10-25 and col. 1, lines 50-62).

As per claim 15, Wallace et al. disclose a system wherein said computer at said remote processing center is adapted to display a master healthcare facility queue view comprising the total number of orders in the healthcare facility queue and the time of the oldest order in the healthcare facility queue (Wallace et al.; col. 21, lines 18-29, Fig. 20B NOTE: Wallace et al. system records "date" of transaction, (i.e., "oldest").

As per claim 16, Wallace et al. disclose a system wherein said computer at said remote processing center is adapted to display a healthcare facility detail queue view comprising an expanded view of said healthcare facility queue and status information related to processing of an order in said healthcare facility queue (Wallace et al.; col. 21, lines 23-29 *RPh can view all dispensing queues)

As per claim 18, Wallace et al. disclose a system wherein said computer at said remote processing center is adapted to display an order view comprising an electronic image of an order from a selected healthcare facility queue (Wallace et al.; col. 18, lines 19-30).

As per claim 19, Wallace et al. disclose a system further comprising a clinical intervention automated tracking application for documenting and reporting order consultations (Wallace et al.; col. 21, lines 30-62 *see DUR, adjudication etc.).

As per claim 20, Wallace et al. disclose a system further comprising a second remote processing center for accessing and processing orders in said plurality of order queues when said at least one remote processing center fails to process orders (Wallace et al.; col. 10, lines 26-39 *alternative RCD).

Regarding claims 15-16, and 18-20, the conclusion of obviousness and statements of motivation as discussed with regard to claim 14 above are applicable to claims 15-16, and 18-20 and are herein incorporated by reference.

As per claims 21-23, Wallace et al. disclose a method and system further comprising maintaining a separate order queue for each healthcare facility at said order server (Wallace et al.; col. 11, lines 41-67, col. 12, lines 1-13, col. 14, lines 48-67, and col. 15, lines 1-25 *see analysis claims 1, 7, and 14 and Response to Remarks).

Regarding claims 21-23, the conclusion of obviousness and statements of motivation as discussed with regard to claims 1, 7, and 14 above are applicable to claims 21-23 and are herein incorporated by reference.

[4] Claims 5-6, 12-13, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace et al. in view Reese and Goodall et al. (United States Patent Application Publication #2003/0149599) and further in view of Gingrich et al. (United States Patent Application Publication #2004/0006490).

Claims 5-6, 12-13, and 17 are directed to processing prescription orders associated with specific healthcare facilities in accordance with "service level commitments specified by the healthcare facility" (Claims 5, 12, and 17) and "accordingly to policies established by the healthcare facility (Claims 6 and 13). As per these elements, While Wallace et al. disclose procedural items such a Drug Utilization Reviews (DURs) and adjudication of orders (Wallace et al.; col. 21, lines 30-62), Wallace et al. fails to disclose that the procedures are queue/facility specific and/or based on contractual rules or agreements involving the specific facility.

However, as evidenced by Gingrich et al., it is well known in the prescription fulfillment and pharmacy benefits management art to provide for procedural checks as dictated by contractual obligations or guidelines (Gingrich et al.; paragraphs [0055]-[0058] [0093] *see contract validation module).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the teachings of Wallace et al. and Reese, as applied to claim 1, above with those of Gingrich et al. with the motivation of determining, during adjudication and validation of a pharmacy order (Wallace et al.; col. 21, lines 30-62) to determine whether the requestor is a valid subscriber to the service (Gingrich et al.; paragraph [0055]).

***Response to Remarks/Amendment***

Applicant's amendments necessitated new grounds of rejection. The remarks filed 10 August 2010 have been fully considered and are moot in view of newly added grounds of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. David Rines whose telephone number is (571)272-5585. The examiner can normally be reached on 8:30am - 5:00pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on 571-272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. David Rines/
Primary Examiner, Art Unit 3623